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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/344,190	06/24/1999	KENNETH SCOTT KUMP	15-XZ-4971	8765

7590 07/03/2006
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EXAMINER

DANG, DUY M

ART UNIT	PAPER NUMBER
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2624

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Abandonment

Application No.

09/344,190

Examiner

Duy M. Dang

Applicant(s)

KUMP, KENNETH SCOTT

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 2/17/04 and 5/26/04.
 - (a) ☒ A reply was received on 13 June 2006 (with a Certificate of Mailing or Transmission dated 13 June 2006), which is after the expiration of the period for reply (including a total extension of time of 3 month(s)) which expired on 17 August 2004.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

see attached



DUY M. DANG
PRIMARY EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Art Unit: 2624

1. It is noted that, after the Office action mailed on February 17, 2004, Applicant submitted an Amendment on May 17, 2004 which was found to be non-compliant. Subsequently, the Notice of Non-Compliant Amendment was mailed on May 26, 2004 to inform applicant.

2. On January 28, 2005, applicant filed a Status Inquiry which indicated that a response was filed by fax on June 04, 2004 in response to Notice of Non-Compliant Amendment mailed on May 26, 2004. However, such response has not been received and placed in the file of record.

3. On June 13, 2006, applicant resubmitted amendment/response (27 pages) by fax after the telephone discussion with examiner. It is noted that at page 7 of the applicant's submission (or page 4 of the Status Inquiry, part of applicant's submission, filed on 16/13/06) contains "Transmission Report" showing the date of June 04, 2004 when applicant previously filed amendment by fax in response to Notice of Non-Complaint Amendment. It is also noted that this page 7 indicated that the fax number was used by applicant was 703-746-5934 which was not an official fax number given in the Office action mailed on February 17, 2004. The official fax number given in the Office action was 703-872-9314 which was also the central fax number used for Tech Center 2600 at the that time (see last page of Office action mailed on February 17, 2004). According to 37 CFR §1.6(a)(3), it states:

"Correspondence transmitted by facsimile to the Patent and Trademark Office will be stamped with the date on which the complete transmission is received in the Patent and Trademark Office unless that date is a Saturday, Sunday, or Federal holiday within the District of Columbia, in which case the date stamped will be the next succeeding day which is not a Saturday, Sunday, or Federal holiday within the District of Columbia."


-So, applicant's Transmission Report including submission date of June 04, 2004 is not the stamped date by the Patent and Trademark Office or the official evidence of receiving facsimile transmission in the Patent and Trademark Office. Therefore, applicant's submission on June 13, 2006 does not comply according to 37 CFR §1.6(a)(3) and considered filed after the expiration of the period for reply which expired on August 17, 2004.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duy M. Dang whose telephone number is 571-272-7389. The examiner can normally be reached on Monday to Friday from 6:00AM to 2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew C. Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

dmd
6/06


DUY M. DANG
PRIMARY EXAMINER